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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,975	04/30/2001	Bjoern Nussbaum	F-6959	2952
7590	07/14/2004			
JORDAN AND HAMBURG LLP 122 East 42nd Street New York, NY 10168				EXAMINER WILLIAMS, MARK A
			ART UNIT 3676	PAPER NUMBER

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/845,975	NUSSBAUM	
	Examiner	Art Unit	
	Mark A. Williams	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 30-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 30-35,38-42,48-52 and 55 is/are rejected.
- 7) Claim(s) 36,37,43-47,53 and 54 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 30-35, 38-42, and 48-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole et al., US Patent 3,774,345. A hinged frame arrangement comprising first and second frame members; a hinge having first 66 and second leaves respectively having outer surfaces mounted to the first and second frame members, the first and second leaves being pivotally connected to one another about a pivot axis to permit relative rotational mounting of the first and second frame members; at least the first frame member having a side surface having a recess 42 extending longitudinally and defining a recess opening and a recess width increasing with depth of the recess into the first frame member; at least the first leaf having a recess engaging member 65 extending from the outer surface and captively received in the recess by virtue of the recess engaging member having a width which increases with depth in the recess such that the recess engaging

member has a width which is greater than a width of the recess opening, the width of the opening being sufficiently wide to permit pivoting of the recess engaging member in the recess thereby permitting an angle defined by the outer surface and the side surface to be varied; and locking means (74, 76) for locking the first leaf relative to the side surface to adjustably set the angle defined by the outer surface and the side surface to be varied. The recess is an elongate groove extending along the side surface. The recess defines undercuts adjacent the recess opening. The locking means extends from the outer surface of the at least first hinge leaf to displace the outer surface from the frame member against retention force of the recess engaging member engaged in the recess. The recess engaging member is arranged in an intermediate region of the outer surface and the locking means are disposed on both sides of the recess engaging member. The locking means are set screws. The frame includes of a rail as claimed. Seal means 41 is provided as claimed. The recess is a slot.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cole. Cole discloses the claimed invention except for the general concept of the recess engaging member being integral with the hinge leaf, as claimed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Cole in this way, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). Such a modification is not critical to the design and would have produced no unexpected results.

Allowable Subject Matter

5. Claims 36, 37, 43-47, 53 and 54 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach nor fairly suggest a hinge frame arrangement in the entire claimed combination including a recess engaging

member with guiding surfaces including an arcuate portion facing the outer surface of the first hinge leaf and pivotally engaging the inner surface of the recess.

Response to Arguments

7. Applicant's arguments with respect to claims 30-55 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however,

will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams
7/9/04 *MW*


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